

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**KAYLA POWELL,**

**Plaintiff,**

**vs.**

**Case No.**

**THE BOARD OF EDUCATION OF  
ROSWELL INDEPENDENT SCHOOL DISTRICT  
and DAVID LAWRENCE, in his individual capacity,**

**Defendants.**

**Jury Trial Requested**

**COMPLAINT FOR CIVIL RIGHTS VIOLATIONS, TITLE IX VIOLATIONS,  
BATTERY, NEGLIGENCE, AND OTHER TORTIOUS CONDUCT**

COMES NOW Plaintiff, by and through the undersigned counsel, Carolyn M. "Cammie" Nichols and Brendan K. Egan of Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu, LLP, and brings the following causes of action pursuant to 42 U.S.C. § 1983, 20 U.S.C. § 1681, the Fourteenth Amendment of the United States Constitution, the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, *et seq.*, and New Mexico common law:

**PARTIES**

1. At all times relevant to this complaint, Plaintiff Kayla Powell was a minor, and a resident of Chaves County, New Mexico.
2. At the time of the filing of this compliant, Plaintiff has reached the age of eighteen and is legally an adult.

3. Defendant Board of Education of the Roswell Independent School District (“RISD”) oversees the operation of public schools in Chaves County, New Mexico, including Goddard High School. Defendant RISD is a governmental entity and local public body as those terms are defined in the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-3(B) and (C), as amended. Pursuant to NMSA 1978, § 22-5-4(E), it has the capacity to be sued on behalf of Roswell Independent School District. Defendant RISD is responsible for the administration of public schools within its geographic boundaries, including Goddard High School. Upon information and belief, at all times material hereto, Roswell Independent School District received federal funding and financial assistance. At all times material hereto, Defendant RISD employed Defendant David Lawrence. Plaintiff’s claims pursuant to the New Mexico Tort Claims Act against Defendant RISD arise under NMSA 1978, § 41-4-6. Under the New Mexico Tort Claims Act, Defendant RISD is vicariously liable for the acts and omissions of Defendant Lawrence. At all times relevant, Defendant RISD was responsible for adopting and implementing the policies, customs, and practices of its employees and agents, including Defendant Lawrence. Defendant RISD is a political subdivision of the State of New Mexico and a “person” under 42 U.S.C. § 1983.

4. Defendant David Lawrence was, at all times material hereto, employed by RISD as a teacher at Goddard High School. Upon information and belief, Defendant Lawrence resides in Chaves County, New Mexico. At all times material hereto, Defendant Lawrence was a public employee as those terms are defined in the New Mexico Tort Claims Act, NMSA 1978, § 41-4-3 (F), as amended. Defendant Lawrence acted in the course and scope of his duties as an RISD employee and under color of state and/or local law. He is

sued in his individual capacity for purposes of Plaintiff's claims brought under 42 U.S.C. § 1983.

5. With respect to Plaintiff's New Mexico Tort Claims Act claims, the acts and omissions complained of herein all constitute a basis for liability against Defendant RISD, and come within the scope of the waivers of immunity contained within the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1, *et seq.*

6. With respect to Plaintiff's New Mexico Tort Claims Act claims, Defendant RISD received actual notice of Plaintiff's intent to file claims under the New Mexico Tort Claims Act. Defendant RISD also received timely written notice of Plaintiff's New Mexico Tort Claims Act claims under relevant statutory and substantive due process considerations. *See* N.M. Const. Art. II, §§ 4 & 18; NMSA 1978, §§ 37-1-10 & 41-4-16(B).

### **JURISDICTION AND VENUE**

7. Jurisdiction over the federal claims is proper under 28 U.S.C. §§ 1331 and 1333. Supplemental jurisdiction over the state claims is proper under 28 U.S.C. § 1337 (a) because the state claims and the federal claims derive from the same common nucleus of operative fact.

8. Venue is proper in New Mexico pursuant to 28 U.S.C. § 1331(b) because all events giving rise to the claims occurred in this district.

### **ALLEGATIONS**

9. Plaintiff hereby incorporates all of the preceding paragraphs, as if fully stated herein.

10. Kayla Powell was born in October of 1993. She first enrolled in Goddard High School as a freshman in the Fall of 2008 when she was fourteen (14) years old.

11. Goddard High School is owned and operated by Defendant RISD. At all times relevant to this complaint, Defendant RISD was responsible for the daily operations of Goddard High School, Roswell High School, and Berrendo Middle School.

12. Defendant RISD and Goddard High School have tolerated and/or encouraged an ongoing, widespread and pervasive culture of inappropriate sexual behavior.

13. Defendant RISD asserts through its website, policies and procedures manual, and other publicly accessible information, that it provides a safe and nurturing educational environment, and one which is vigilant to protect vulnerable students from harassment and/or sexual abuse by students, staff, and faculty.

14. Goddard High School is subject to the Policies and Procedures of Defendant RISD.

15. Because of Defendant RISD's representations, Kayla Powell's parents believed Goddard High School would be a safe educational environment for Kayla Powell, a minor at the time she first enrolled at Goddard.

16. Upon information and belief, at the time that Defendant Lawrence was hired by RISD, there was no meaningful background check or inspection of his qualifications to be in a position where he would have access to young female students.

17. NMSA 1978, §22-10A-5 mandates that applicants for initial licensure shall be fingerprinted and background checks shall be conducted on anyone who has been offered employment by a school.

18. Defendant RISD had a duty under state law to provide appropriate supervision of its subordinate employees, including Defendant Lawrence.

19. Upon information and belief, prior to his contact with Kayla Powell, Defendant Lawrence had made sexual advances, engaged in inappropriate conduct towards, and/or had inappropriate romantic relationships with other minor female students at Goddard High School.

20. At the time Kayla Powell first attended Goddard, Defendant Lawrence had a reputation for behaving inappropriately towards female students.

21. Defendant Lawrence had a reputation for filling the front rows of his classroom with attractive female students, while causing the male students and the less attractive female students to sit in the back of the classroom.

22. Defendant RISD knew, should have known, or had reason to believe that Defendant Lawrence engaged in inappropriate behaviors with female students at Goddard High School.

23. When Kayla Powell first enrolled at Goddard High School as a freshman, Defendant Lawrence was employed by Defendant RISD at Goddard High School as a health teacher and coach.

24. Defendant Lawrence was Plaintiff Kayla Powell's health teacher in her freshman year at Goddard High School.

25. Defendant Lawrence assigned Kayla Powell to sit in the front row of his health class, directly in front of his desk.

26. During health class and at other times, Defendant Lawrence began having flirtatious interactions with Kayla Powell.

27. By Kayla Powell's junior year at Goddard High School, Defendant Lawrence and Kayla Powell were openly interacting flirtatiously on a regular basis, in front of other students and Goddard High School staff.

28. When Kayla Powell was late for class, Defendant Lawrence would sometimes accompany her to classes, which was unnecessary, unusual, and garnered the attention of students and staff.

29. Defendant Lawrence would routinely encourage and allow Kayla Powell to spend time alone with him in his classroom.

30. Defendant Lawrence would routinely encourage Kayla Powell to sit on his desk when class was not in session.

31. While Kayla Powell sat on his desk, Defendant Lawrence sat between Kayla Powell's legs and he would place his hand on her leg.

32. While they were alone in Defendant Lawrence's classroom, Defendant Lawrence would often touch Kayla's breasts and buttocks and talk about the two of them meeting up outside of school.

33. Plaintiff Kayla Powell would leave love notes in Defendant Lawrence's office, on sticky notes posted on his calendar, and other places. Ms. Powell gave Defendant Lawrence a t-shirt expressing affection.

34. Defendant Lawrence encouraged the attention Kayla Powell gave him.

35. Defendant Lawrence was observed alone with Kayla Powell in the Goddard High School boy's locker room.

36. Defendant Lawrence repeatedly made romantic and sexual comments to Kayla Powell.

37. Defendant Lawrence told Kayla Powell that she reminded him of his high school sweetheart.

38. Defendant Lawrence told Kayla Powell that if she were seventeen he “would tap that ass.”

39. Defendant Lawrence slapped Kayla Powell’s buttocks on numerous occasions while other students were present.

40. In February of 2011, Roswell High School played a basketball game against Goddard High School.

41. Defendant Lawrence and Kayla Powell attended this basketball game.

42. At the basketball game, Defendant Lawrence told Kayla Powell that she should come to his house, because his wife was out of town.

43. After the basketball game, Defendant Lawrence sent Kayla Powell a text inviting her to his house in Roswell. Defendant Lawrence’s text to Kayla Powell said, “I am alone.”

44. Kelci Gardner, a friend of Kayla Powell’s and also a student at Goddard High School, drove Kayla to Defendant Lawrence’s house.

45. Defendant Lawrence opened the door to his house and Kayla Powell entered his home.

46. Defendant Lawrence had Kayla Powell remove her top and stand in his living room wearing only her brassiere.

47. Defendant Lawrence then began to fondle Kayla Powell’s buttocks and breasts, and placed his hand inside her underwear.

48. Defendant Lawrence then left Kayla Powell standing in his living room, partially undressed, while he left the room for a few moments.

49. When Defendant Lawrence returned to the living room, he told Kayla Powell to leave.

50. Prior to this incident, various Goddard High School athletic coaches employed by Defendant RISD were aware, or should have been aware, of the inappropriate relationship between Defendant Lawrence and Kayla Powell.

51. Coach Sheri Gibson made comments to Kayla Powell to the effect that “[Defendant] Lawrence is your boyfriend.”

52. In another instance, Coach Jacob Caldwell took Kayla Powell aside and asked her why Defendant Lawrence needed to walk her to class.

53. Patty Nolan, a teacher in the classroom next to Defendant Lawrence’s, observed Defendant Lawrence’s behavior toward Kayla Powell and, apparently, suspected that Defendant Lawrence was engaging in inappropriate behavior with Kayla Powell.

54. Ms. Nolan did not take any actions regarding her suspicions about Defendant Lawrence and Kayla Powell.

55. In approximately April of 2011, Ms. Rivers, a staff member employed by Defendant RISD at Goddard High School, reported to Goddard High School administrators that she believed she saw a kiss between Defendant Lawrence and Kayla Powell by the water fountain in the hallway near Defendant Lawrence’s classroom.

56. Goddard High School administrators, employees of Defendant RISD, including Goddard High School principal Andy Sweet, were aware of Ms. Rivers’ allegation

but failed to take adequate steps to investigate the allegation and/or stop Defendant Lawrence's illegal behavior.

57. Goddard High School administrators, including Principal Sweet and Brian Luck, the dean of students at Goddard High School, questioned Kayla Powell about Ms. Rivers' allegations, but Kayla, feeling cornered and wanting to protect Defendant Lawrence, denied kissing Defendant Lawrence and said that nothing inappropriate was occurring.

58. After meeting with Kayla Powell and Defendant Lawrence separately, Goddard High School administrators, including Principal Sweet, told both Defendant Lawrence and Kayla Powell that they could not spend time alone together anymore.

59. Later on the same day that administrators questioned Kayla Powell about Defendant Lawrence, Defendant Lawrence waited for Kayla Powell in the gymnasium and asked her what she told the administrators.

60. Kayla Powell told Defendant Lawrence that she denied everything.

61. After Kayla Powell told Defendant Lawrence that she denied everything, Defendant Lawrence told Kayla that she did the right thing because he could lose his job, wife, and career and she, Kayla, could lose her reputation if people found out about their romantic involvement with each other.

62. This statement by Defendant Lawrence upset Kayla Powell and emotionally confused her.

63. Approximately several days later, Defendant Lawrence and Kayla Powell were alone in Defendant Lawrence's classroom when Goddard High School administrators, including Principal Sweet, Brian Luck, and Michelle Edgett unexpectedly walked into

Defendant Lawrence's classroom and saw Defendant Lawrence and Kayla Powell alone together.

64. These administrators saw Defendant Lawrence and Kayla Powell alone together, which they were forbidden from doing as of several days prior, but did not say anything to either Defendant Lawrence or Kayla Powell at that time. Kayla Powell never heard anything from the Goddard High School administrators about this incident.

65. Sometime in the Spring or Summer of 2011, Susan Entrop, a middle school teacher employed by Defendant RISD, became concerned about the inappropriate relationship between Defendant Lawrence and Kayla Powell after Kayla Powell spoke to her in confidence.

66. Kayla Powell is, and was at the time, Ms. Entrop's former student.

67. Ms. Entrop conferred with another teacher or staff member employed by Defendant RISD about the reporting requirements for suspected inappropriate sexual or romantic behavior.

68. The other teacher/staff member told Ms. Entrop to go to a school administrator to express her concern.

69. Ms. Entrop reported her concerns about Defendant Lawrence's inappropriate behavior toward Kayla Powell to Berrendo Middle School Assistant Principal Susan Martin, an employee of Defendant RISD.

70. On or about August 25, 2011, Ms. Martin and/or other RISD employees reported the above-referenced allegations concerning Defendant Lawrence to the Roswell Police Department.

71. On September 7, 2011, a warrant was issued for Defendant Lawrence's arrest based on alleged violations of NMSA 1978, § 30-9-13(D)(2) (Criminal Sexual Contact of a Minor). Roswell Police Department detectives and/or officers arrested Defendant Lawrence a short time later.

72. The State of New Mexico prosecuted Defendant Lawrence for Criminal Sexual Contact of a Minor in the Fourth Degree.

73. The State of New Mexico submitted an incorrect jury instruction at the close of trial, an error caught and corrected by the court, after the close of evidence but before closing arguments.

74. In May of 2012, a jury acquitted Defendant Lawrence of Criminal Sexual Contact of a Minor in the Fourth Degree.

75. At Defendant Lawrence's criminal trial, various witnesses provided conflicting testimony and/or changed their prior testimony given at Defendant Lawrence's preliminary hearing for the criminal charge.

76. Kelci Gardner, Kayla Powell's friend who drove Kayla Powell to Defendant Lawrence's house and also attended Goddard High School, testified under oath at both Defendant Lawrence's preliminary hearing and jury trial.

77. Kelci Gardner's testimony at Defendant Lawrence's trial conflicted, in part, with the testimony she gave at his preliminary hearing.

78. Prior to Defendant Lawrence's preliminary hearing, Kelci Gardner's father, Keith Gardner, had a conversation with Kayla Powell's father, Brian Powell, in which Keith Gardner expressed his concerns about his daughter's forthcoming testimony at the preliminary hearing.

79. As a result of Defendants RISD's and Lawrence's acts and omissions, Kayla Powell suffered severe emotional distress.

80. As a result of Defendants RISD's and Lawrence's acts and omissions, Kayla Powell was ostracized by her fellow students at Goddard High School after Defendant Lawrence was arrested and the facts alleged herein came to public light.

81. After Defendant Lawrence was arrested, various Goddard High School administrators, teachers, coaches, and fellow students retaliated against Kayla Powell and subjected her to a hostile environment while Kayla Powell attended school and participated in officially sanctioned school activities and events.

82. Defendant RISD had the authority and power to remedy the hostile environment that Kayla Powell faced but failed to do so.

83. Approximately several days or weeks after Defendant Lawrence was arrested, administrators from Defendant RISD forced Kayla Powell to sign a contract in order for her to be able to continue her education at Goddard High School or play on the Goddard High School volleyball team.

84. Principal Sweet told Kayla Powell and her parents that all volleyball team members would be forced to sign a similar contract.

85. No other member of the volleyball team was forced to sign such a contract.

86. Kayla Powell was then suspended from the volleyball team without just cause or excuse.

87. Because of the hostile environment she faced at school and on the volleyball team, Kayla Powell quit the volleyball team. One of her coaches, Ms. Gibson, changed

Kayla's position, told her there was no guaranteed playing time, and otherwise subjected Kayla Powell to a hostile environment on the volleyball team.

88. Kayla Powell was devastated by not being able to play volleyball, a sport she excelled at as a Goddard High School student.

89. Kayla Powell was hoping to play volleyball in college, and possibly obtain a scholarship to do so, but by having to quit the team her senior year of high school her hopes of playing volleyball in college were effectively destroyed.

90. Because of Defendants' outrageous, intentional, reckless, wanton, and/or willful conduct toward Plaintiff Kayla Powell, Plaintiff Powell has suffered injuries and damages.

## **COUNT I**

### **(Plaintiff's Claims Against Defendant Lawrence Pursuant to 42 U.S.C. § 1983)**

91. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

92. Plaintiff Kayla Powell has a right to bodily integrity under the Fourteenth Amendment to the U.S. Constitution.

93. Defendant Lawrence deprived Kayla Powell of her substantive due process right to bodily integrity under the Fourteenth Amendment to the U.S. Constitution.

94. Defendant Lawrence deprived Kayla Powell of her Fourteenth Amendment right to substantive due process by physically, mentally, and emotionally manipulating and abusing her.

95. As a state actor, Defendant Lawrence carried out, in a constitutionally impermissible manner, the functions assigned to him by Defendant RISD and the State of New Mexico.

96. Defendant Lawrence engaged in actions and omissions which were egregious, outrageous or fraught with unreasonable risk. Such actions harmed Kayla Powell who was a member of a particular, limited, closed group, namely, female students at Goddard High School.

97. Defendant Lawrence was not involved in a situation demanding split-second judgments. Instead, Defendant Lawrence had adequate time for thoughtful deliberation.

98. Defendant Lawrence's conduct, as described herein and in the context of the situation, shocks the conscience.

99. The conduct of Defendant Lawrence, as alleged herein, was a direct and proximate cause of Kayla Powell's injuries and damages.

100. Defendant Lawrence's conduct involved intentional misconduct, recklessness, willfulness, and callous indifference to Plaintiff's rights. As Defendant Lawrence's conduct was motivated by malice, evil motive or intent, Plaintiff is entitled to recover awards of punitive and exemplary damages against Defendant Lawrence in an amount to be determined at trial.

101. The constitutional rights violated by Defendant Lawrence were clearly established prior to February, 2011, and any reasonable high school administrator, teacher or coach would have been aware that the conduct described herein would violate Plaintiff's constitutional rights.

## **COUNT II**

### **(Plaintiff's Claim Against Defendant RISD Pursuant to 42 U.S.C. § 1983)**

102. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

103. Defendant RISD had a duty to exercise due care in the supervision of its staff, teachers, and contractors. In addition, Defendant RISD had a duty to properly screen, hire, train, monitor, supervise and/or discipline staff, teachers, and contractors employed by Defendant RISD. Defendant RISD had a further duty to ensure that staff, teachers, and contractors were aware of and guided by appropriate policies and procedures related to child safety and the welfare of minor students.

104. Defendant RISD failed to adequately train and supervise Defendant Lawrence in his activities. This failure caused Plaintiff to be subjected to the physical, mental, and emotional abuse described above. Defendant RISD, because it knew or should have known of Defendant Lawrence's grooming and abuse of Kayla Powell, was deliberately indifferent to the constitutional rights of Plaintiff as exemplified by its complete failure to protect Plaintiff, which caused Plaintiff to suffer continuing physical, mental, and emotional abuse.

105. The actions and inactions of Defendant RISD, and its supervisors and staff, were the result of a custom or policy which permitted or condoned (reflecting deliberate indifference to Kayla Powell and other minor female Goddard students) Defendant Lawrence's physical, mental, and emotional abuse and manipulation of Kayla Powell.

106. As a consequence of Defendant RISD's defective supervision and custom or policy, as described herein, Plaintiff has been deprived under color of law of the rights, privileges and immunities secured by the Constitution and the laws of the United States, including the right under the Fourteenth Amendment to be free from intrusions into her bodily integrity.

107. As a direct and proximate consequence of the deprivation of her rights, Plaintiff suffered the resultant injuries and damages described herein.

### **COUNT III**

#### **(Plaintiff's Claims against Defendant RISD under Title IX (20 U.S.C. §§ 1681-1688) for Sexual Harassment and Retaliation)**

108. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

109. At all times material hereto, Plaintiff was a student at Goddard High School, owned, controlled, operated, and administered by Defendant RISD.

110. The sexual harassment and abuse perpetrated by Defendant Lawrence against Kayla Powell was so severe, pervasive, and objectively offensive that it deprived her of access to the educational opportunities or benefits provided by the school.

111. Defendant RISD had actual and/or constructive knowledge that Defendant Lawrence was sexually harassing, abusing, and manipulating Kayla Powell

112. Defendant RISD was deliberately indifferent to the inappropriate relationship and illegal conduct that Defendant Lawrence subjected upon Kayla Powell.

113. Defendant RISD was deliberately indifferent to the hostile environment that employees of Defendant RISD and other Goddard High School students subjected upon Kayla Powell while she was in school and/or attended officially sanctioned school activities and events.

114. Defendant RISD had the authority and power to remedy the hostile environment facing Kayla Powell, both before and after the allegations against Defendant Lawrence became public, but failed to do so.

115. Upon information and belief, Defendant RISD had not provided any adequate instruction or education to Goddard High School students about hazing or enacted or

enforced any policies to prohibit or discourage the type of hostile environment facing Kayla Powell after the allegations against Defendant Lawrence became public.

116. Upon information and belief, Defendant RISD had not provided any adequate instruction or education to Goddard High School coaches and/or staff about hazing or enacted or enforced any policies to prohibit or discourage the type of hostile environment facing Kayla Powell both before and after the allegations against Defendant Lawrence became public.

117. Defendant RISD acted with deliberate indifference and recklessness with respect to the hostile environment facing Kayla Powell.

118. Defendant RISD retaliated against Kayla Powell, through its acts and omissions set forth herein, after Defendant Lawrence was arrested and the allegations against him became public knowledge.

119. Upon information and belief, at all times material hereto, Defendant RISD received federal funding and financial assistance.

120. Defendant RISD had a duty under Title IX, 20 U.S.C. § 1681, to provide an educational environment in which no student, including Kayla Powell, should be excluded from education, denied the benefits of education, or discriminated against on the basis of sex.

121. At all times material hereto, Defendant RISD, acting through its officials, administrators and employees, maintained customs and policies which permitted or condoned sexual harassment and abuse of students by staff, teachers, coaches, and other students in connection with official school activities.

122. As a result of these customs and policies, Plaintiff was subjected to invasive, severe and objectively offensive sexual harassment and physical, emotional, and mental

abuse by Defendant Lawrence arising out of official school classes and programs. The sexual assaults and batteries upon Plaintiff, described above, were the natural and inevitable consequence of officially sanctioned but effectively unsupervised school activities.

123. Defendant RISD, and its officials, administrators, supervisors, and employees, had actual knowledge of the harassment, abuse, and discrimination inflicted upon Plaintiff and others by Defendant Lawrence, had the authority to address such misconduct, but failed to adequately respond. Defendant RISD's acts and omissions, acting or failing to act through its officials, administrators, supervisors, and employees, amounted to deliberate indifference to the harassment of, abuse of, and discrimination against Plaintiff.

124. Upon information and belief, Defendant RISD failed to properly and adequately instruct its administrators, supervisors, employees, and contractors as to how to respond to inappropriate sexual advances, or other inappropriate behavior by adult RISD employees toward minor students enrolled in Goddard High School. Defendant RISD has not developed or promulgated adequate policies addressing issues of sexual abuse and harassment by a teacher or staff member against a minor student. The deliberate indifference of Defendant RISD, and its officials, administrators, and employees, to the acts of sexual abuse, as well as its failure to adopt, publish, and inculcate appropriate policies regarding such abuse and harassment, deprived Plaintiff of benefits under Title IX, and subjected her to discrimination on the basis of her sex, female, in violation of Title IX. It further caused Plaintiff to be excluded from participation in, denied the benefits of, and be subjected to discrimination on the basis of sex under an education program or activity receiving federal financial assistance.

125. As a direct and proximate consequence of the discrimination and violation of Title IX, Plaintiff suffered the resultant injuries and damages described herein.

## **COUNT IV**

### **(Plaintiff's Claim against Defendant RISD Pursuant to the New Mexico Tort Claims Act-NMSA 1978, § 41-4-6)**

126. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

127. At all times material hereto, Defendant RISD operated Goddard High School, which Plaintiff Kayla Powell attended, as well as Roswell High School.

128. Defendants RISD and Lawrence, who was acting in the scope of his employment with Defendant RISD, had the duty in any activity actually undertaken to exercise for the safety of others, including Kayla Powell, that care ordinarily exercised by a reasonable, prudent, and qualified person in their position in light of the nature of what was being done.

129. Defendant RISD had a duty to Plaintiff to exercise reasonable care in the maintenance and operation of Goddard High School and Roswell High School and to keep all its educational premises in a safe condition.

130. Defendant RISD had a further duty to supervise its employees, contractors, and agents in order to ensure that they did not act negligently in the operation or maintenance of their buildings.

131. Supervision includes the obligation to adopt and inculcate reasonable and proper operational policies and procedures concerning the safe operation of Defendant RISD's educational facilities, including appropriate policies and procedures regarding employee training, adequate monitoring and regulation of their employees' activities, and

other such policies and procedures as are reasonably necessary to ensure adequate safety in the operation and maintenance of Defendant RISD's educational facilities, such as Goddard and Roswell High Schools, in order to avoid unsafe, dangerous or defective conditions on the premises.

132. Defendant RISD, in maintaining and operating its premises in a safe condition necessarily had a duty to supervise its teachers and other employees and to protect its minor students, including Kayla Powell, from sexual assaults, batteries, advances, or harassment from other persons, including Defendant Lawrence.

133. Defendant RISD, acting through its administrators, supervisors, employees, and contractors, had the duty to adopt and implement proper safety policies and procedures to protect its minor students, including Kayla Powell, from sexual assaults, batteries, advances, or harassment from other persons, including Defendant Lawrence.

134. Defendant RISD, acting through its administrators, supervisors, employees, and contractors, had a duty to investigate and act upon any suspicions or reports of improper sexual assaults, batteries, advances, or harassment by RISD employees or agents against any minor student attending Defendant RISD's schools.

135. Defendant RISD failed to exercise reasonable care in the maintenance of the premises in a safe condition because it repeatedly ignored the warning signs and the readily observable inappropriate interactions of Defendant Lawrence toward Kayla Powell.

136. Defendant RISD failed to use ordinary care to protect Kayla Powell from the danger posed to her by Defendant Lawrence.

137. Defendant RISD breached these duties that it owed Kayla Powell.

138. Defendant RISD further breached its duties by failing to properly screen, hire, train, monitor, supervise and/or discipline employees of Goddard High School, such as Defendant Lawrence, as well as by failing to enforce appropriate policies, procedures and protocols regarding safety in student-teacher interactions, and by otherwise failing to take appropriate and reasonable supervisory actions to correct the potential problems and prevent the harm and injuries incurred by Kayla Powell.

139. Defendant RISD is jointly and severally liable for all injuries and damages caused by the actions of its officials and/or employees, including Defendant Lawrence, pursuant to the doctrines of vicarious liability and *respondeat superior*.

140. The above-described conduct of the Defendant RISD was a direct and proximate cause of the injuries to Plaintiff and the resultant damages described herein.

## **COUNT V**

### **(Plaintiff's Common Law Battery Claim against Defendant Lawrence)**

141. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

142. The conduct of Defendant Lawrence, as described above, constituted battery upon Kayla Powell.

143. Defendant Lawrence had a duty to refrain from engaging in battery upon Kayla Powell.

144. Defendant breached this duty by engaging in the conduct and performing the actions he perpetrated upon Kayla Powell, as described herein.

145. The conduct of Defendant Lawrence was negligent, willful, malicious, grossly negligent, and/or indifferent.

146. As a direct and proximate result of the actions of Defendant Lawrence, Kayla Powell suffered repeated batteries which were the cause of the injuries and resultant damages described herein.

## **COUNT VI**

### **(Plaintiff's Common Law Negligence Per Se Claim against Defendant Lawrence)**

147. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

148. There were in force at the time of the events described herein statutes which provided that it was a crime to commit criminal sexual contact of a minor and/or to engage in sexual exploitation of a minor. The conduct of Defendant Lawrence, described herein, violated each of these statutes. These statutory violations were neither excused nor justified.

149. The conduct on the part of Defendant Lawrence constituted negligence per se.

150. As a direct and proximate result of the negligence per se of Defendant Lawrence, Kayla Powell suffered the injuries and resultant damages described herein.

## **COUNT VII**

### **(Plaintiff's Common Law Intentional Infliction of Emotional Distress/Outrage Claim against Defendant Lawrence)**

151. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

152. The conduct of Defendant Lawrence, described above, was intentional and malicious and, under the circumstances, was extreme and outrageous.

153. The conduct of Defendant Lawrence, described above, was intentional and/or in reckless disregard of Plaintiff Kayla Powell and her well-being.

154. As a result of the conduct of Defendant Lawrence, Plaintiff Kayla Powell's mental distress was extreme and severe.

155. As a direct and proximate result of the actions of Defendant Lawrence, Kayla Powell suffered severe emotional distress as well as the injuries and damages described herein.

**PRAYER FOR RELIEF**

156. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

157. As a direct and proximate result of the wrongful and unlawful acts and omissions of all Defendants, as described above, Kayla Powell was injured and has suffered and continues to suffer damages, including, but not limited to: severe emotional distress, anguish, suffering, humiliation, psychological injuries, indignities, loss of enjoyment of life, deprivation of constitutional rights, invasion of bodily integrity, and other incidental, consequential, and special damages.

158. As a result of the above-described damages and injuries, Plaintiff Kayla Powell is entitled to recover an award of full compensatory damages against all Defendants in amounts to be determined at the trial of this cause.

159. Plaintiff Kayla Powell requests damages in an amount sufficient to compensate her for all injuries and harm she suffered, as well as punitive damages as provided by law, along with costs of this action, pre- and post- judgment interest as provided by law, reasonable attorneys' fees as provided by law, and such other and further relief as proves just.

160. Plaintiff Kayla Powell requests a trial by jury on all issues so triable.

Respectfully submitted,

ROTHSTEIN, DONATELLI, HUGHES,  
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